

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOHN THOMAS FALVEY,

Plaintiff

v.

GEORGE W. BUSH, *et al.*,

Defendants.

Case No. 3:23-CV-00117-RCJ-CLB

**ORDER TO PAY FILING FEE
OR FILE APPLICATION TO
PROCEED *IN FORMA PAUPERIS***

I. DISCUSSION

On March 21, 2023, Plaintiff John Thomas Falvey ("Falvey"), an inmate in the custody of the Elko County Jail, submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Falvey has neither paid the full \$402 filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Falvey a **one-time** opportunity to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$402 filing fee for this action on or before **Monday, May**

1 **8, 2023.** Absent unusual circumstances, the Court will not grant any further extensions of
2 time.

3 If Falvey is unable to file a fully complete application to proceed *in forma pauperis*
4 with all three required documents or pay the full \$402 filing fee on or before **Monday, May**
5 **8, 2023**, this case will be subject to dismissal without prejudice for Falvey to file a new
6 case with the Court when Falvey is either able to acquire all three of the documents
7 needed to file a fully complete application to proceed *in forma pauperis* or pays the full
8 \$402 filing fee.

9 A dismissal without prejudice means Falvey does not give up the right to refile the
10 case with the Court, under a new case number, when Falvey has all three documents
11 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Falvey
12 may choose not to file an application to proceed *in forma pauperis* and instead pay the
13 full filing fee of \$402 on or before **Monday, May 8, 2023** to proceed with this case.

14 The Court will retain Falvey's civil rights complaint (ECF No. 1-1), but the Court will
15 not file the complaint unless and until Falvey timely files a fully complete application to
16 proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

17 **II. CONCLUSION**

18 For the foregoing reasons, **IT IS ORDERED** that the Clerk of the Court will **SEND**
19 Falvey the approved form application to proceed *in forma pauperis* by an inmate, as well
20 as the document entitled information and instructions for filing an *in forma pauperis*
21 application.

22 **IT IS FURTHER ORDERED** that on or before **Monday, May 8, 2023**, Falvey will
23 either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and
24 the \$52 administrative fee) or file with the Court:

25 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
26 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
27 signatures on page 3),

28 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail

1 official (i.e. page 4 of this Court's approved form), and

2 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
3 **previous six-month period.**

4 **IT IS FURTHER ORDERED** that, if Falvey does not file a fully complete application
5 to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a
6 civil action on or before **Monday, May 8, 2023**, this case will be subject to dismissal
7 without prejudice for Falvey to refile the case with the Court, under a new case number,
8 when Falvey has all three documents needed to file a complete application to proceed *in*
9 *forma pauperis* or pays the full \$402 filing fee.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court will retain the complaint
11 (ECF No. 1-1) but will not file it at this time.

12 **IT IS SO ORDERED.**

13 **DATED:** March 22, 2023

14 

15 **UNITED STATES MAGISTRATE JUDGE**